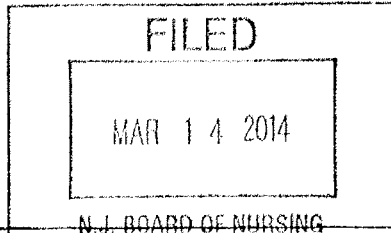
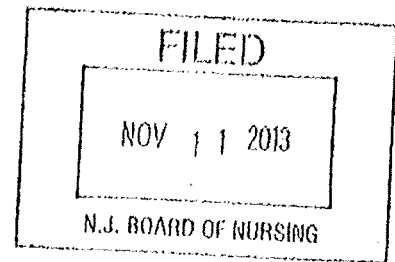


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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF NURSING

Final
ADMINISTRATIVE ACTION

~~IN THE MATTER OF THE SUSPENSION OR
REVOCATION OF THE CERTIFICATE OF~~

Sylvester Abenah, C.H.H.A.
Certificate No. 26NH14035400

PROVISIONAL ORDER OF DISCIPLINE

* Finalized by Default on: 3/14/14

HOMEMAKER HOME HEALTH AIDE
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Nursing (the ABoard@) upon receipt of information which the Board has reviewed and on which the following preliminary findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Sylvester Abenah, ("Respondent") is the holder of Homemaker Health Aid Certificate 26NH14035400 in the State of New Jersey. (See L2k printout annexed hereto as **Exhibit A**).

2. On March 30, 2013, the Respondent was arrested by the Little Silver Police Department on charges of two (2) counts of

Credit Card Theft, in violation of N.J.S.A. 2C:21-6C(1), and one (1) count of Theft, N.J.S.A. 2C:20-2B(2)(A). (See Little Silver Police Report, annexed hereto as **Exhibit B**, page 5).

3. The arrest stemmed from allegations that the Respondent removed and used a client's credit cards for several substantial transactions without the client's permission, and made several ATM withdrawals without the client's permission. The amount of theft involved is allegedly in excess of \$3,035.93. (See **Exhibit B**, page 9).

4. Specifically, on or about March 6, 2013, the family of the victims contacted Little Silver Police Department to report allegations of multiple incidents of fraudulent activity on their ATM cards between February 16, 2013 and March 6, 2013. Upon review of the account, Detective Oliva contacted Wells Fargo and obtained surveillance photographs of the individual removing money from the ATM. (See **Exhibit B**, page 24). Detective Oliva then cross-referenced the photographs with DMV photographs of the individuals employed at the complainant's home and determined it was the Respondent. (See **Exhibit B**, page 9).

5. According to the police report, following his arrest,

the Respondent made a voluntary recorded sworn statement to the Little Silver Police wherein he admitted to using the client's credit card and ATM card without authorization. However, after completion of the sworn interview, it was found that the audio equipment for the interview had malfunctioned, and portions of the interview had not been recorded. (See **Exhibit B**, page 10).

CONCLUSIONS OF LAW

The Respondent's admission to the conduct of using the client's credit card and ATM cards without authorization, constitute preliminary grounds to take disciplinary action against the Respondent's certification to practice as a certified homemaker-home health aide in New Jersey pursuant to N.J.S.A. 45:1-21(b), (e) and (f) in that Respondent has engaged in the use of dishonesty, fraud, deception, misrepresentation, false promise or false pretense, has engaged in professional or occupational misconduct, and has engaged in acts constituting a crime relating adversely to the activity regulated by the Board.

ACCORDINGLY, IT IS on this 11 day of November, 2013,

ORDERED that:

1. Respondent's certification to practice as a homemaker-home health aide is provisionally suspended for a minimum of five years.

2. Respondent shall provisionally pay a penalty in the amount of \$1,000.00, via certified check or money order payable to the State of New Jersey, delivered to George Hebert, Executive Director, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Payment shall be made no later than 15 days after notice of the entry of any Final Order is served in this matter, including any Order which is finalized by default. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

4. Prior to Board consideration of any application of Respondent's certification to practice as a CHHA, respondent shall provide documentation showing full compliance with the terms of any criminal sentencing that may result from the charges detailed above.

5. Prior to Board consideration of any request for reinstatement of his certification, Respondent shall provide evidence of rehabilitation to the satisfaction of the Board and shall provide evidence that he is competent to reenter practice as a homemaker home health aide, including completion of a homemaker home health aide training course

as described in Board regulations.

6. Respondent shall provisionally refrain from engaging in the practice of homemaker-home health aide and shall not represent himself as a certified homemaker-home health aide until such time as her certification is reinstated. Any practice in this State prior to such reinstatement shall constitute grounds for a charge of unlicensed practice.

7. Respondent may request a modification or dismissal of the above stated Findings of Fact or Conclusions of Law within 30 days of the date this Provisional Order is filed by:

a) Submitting a written request for modification or dismissal to George Hebert, Executive Director, Board of Nursing, 124 Halsey Street, Sixth Floor, P.O. Box 45010, Newark, New Jersey 07101.

b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

c) Submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefore or offered in mitigation

of penalty.

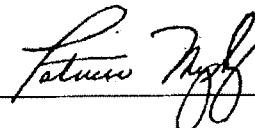
8. Any submissions will be reviewed by the Board and the Board will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a supplemental submission during the thirty-day period, or if the Board is not persuaded that the submitted materials merit further consideration, a Final Order will be entered.

9. In the event that Respondent's submissions establish a need for further proceedings, including, but not limited to an evidentiary hearing, Respondent shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, the preliminary findings of fact and conclusions of law contained herein may serve as notice of the factual and legal allegations in such proceeding. Further, in the event a hearing is held and upon review of the record, the Board shall not be limited to the findings, conclusions and sanctions stated herein.

10. In the event that the Board receives no written request for modification or dismissal within 30 days following entry of this Provisional Order, without further Board review, all referenced preliminary Findings of Fact

and Conclusions of Law and all provisional sanctions or penalties imposed by this Order shall automatically become the Final Decision and Order of the Board. Thereafter, Respondent's failure to comply with any sanction or penalty imposed by this Order shall be considered a violation of a Board Order in contravention of N.J.S.A. 45:1-21 (e) and (h) and N.J.A.C. 13:45C-1.4 and may subject Respondent to additional sanction and/or penalty.

NEW JERSEY STATE BOARD OF NURSING

By:  P.D., APN, FAAN
Patricia Murphy, PhD, APN
President